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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,780	04/02/2004	Timothy A.M. Chuter	12730/253	9975
48003	7590	01/11/2008		
BRINKS HOFER GILSON & LIONE/CHICAGO/COOK			EXAMINER	
PO BOX 10395			WOO, JULIAN W	
CHICAGO, IL 60610				
			ART UNIT	PAPER NUMBER
			3773	
			MAIL DATE	DELIVERY MODE
			01/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/816,780

Applicant(s)

CHUTER, TIMOTHY A.M.

Examiner

Julian W. Woo

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12, 14-18 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 14-18 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12, 14-18, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Bynon et al. (5,667,523). Bynon et al. disclose, at least in figure 1, a limb or a stent comprising at least one limb having a cross sectional profile in which at least one segment is flat and straight, where each limb is comprised of two curved portions having opposite direction of curvature, an intermediate straight, flat mid-portion connecting the two curved portions, and short straight segment at each end; where the intermediate straight, flat mid portion is angled with respect to the short, straight segments at each end in an expanded state; where the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment (between a "curved portion" and a "strut" as seen in the figure below); where the stent has been provided with at least one strut in order to augment expansion, where the stent has been provided with a multiplicity of struts to supplement each of the limbs, where the stent comprises a multiplicity of identical limbs or wires in

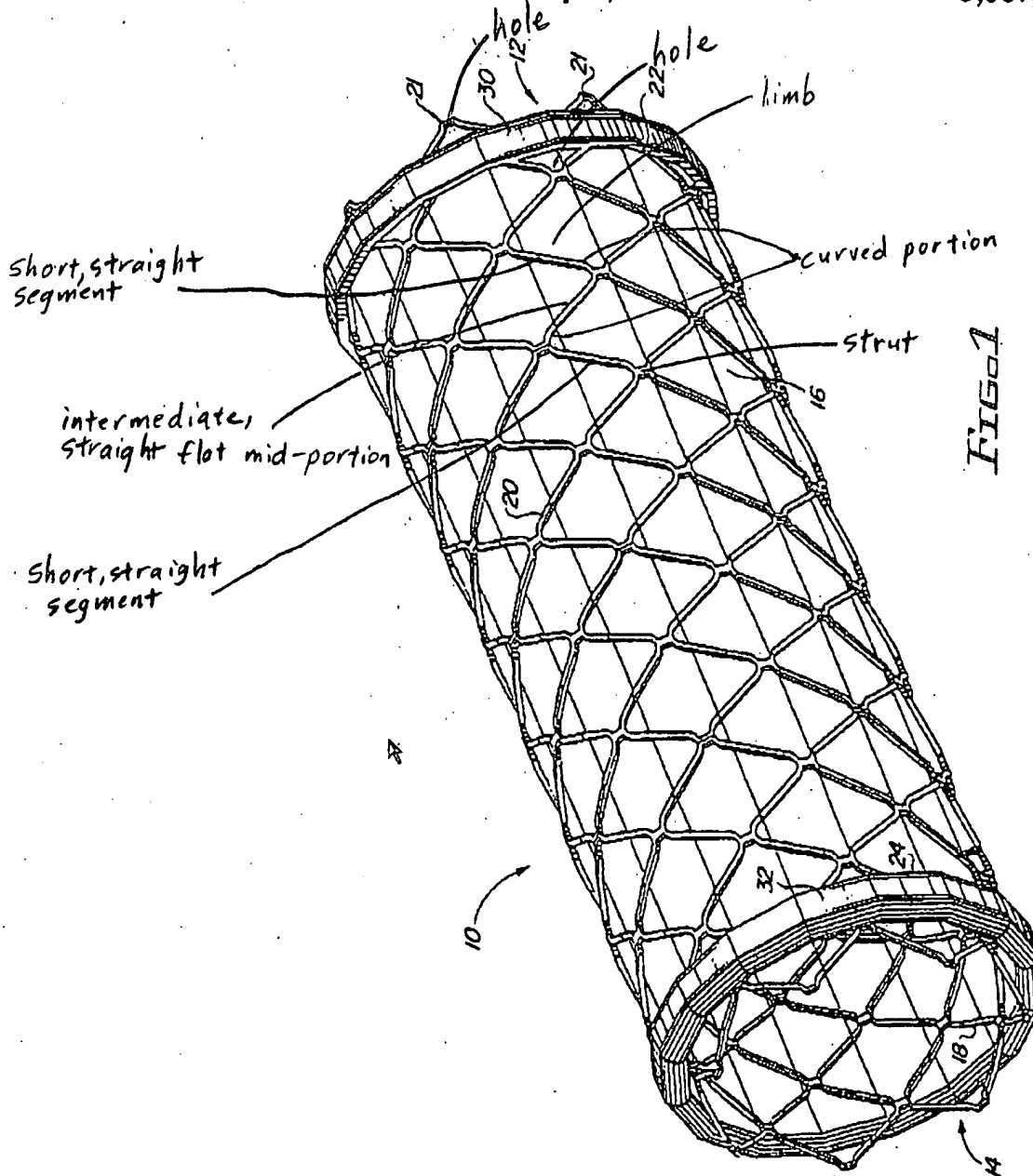
order form a cylindrical structure, where the overall length of the stent is a multiple of the overall diameter of the cylindrical structure, and where the end of at least one limb is provided with a hole (at 21 or a trapezoidal slot). See the figure below for an illustration of the abovementioned limitations.

U.S. Patent

Sep. 16, 1997

Sheet 1 of 5

5,667,523



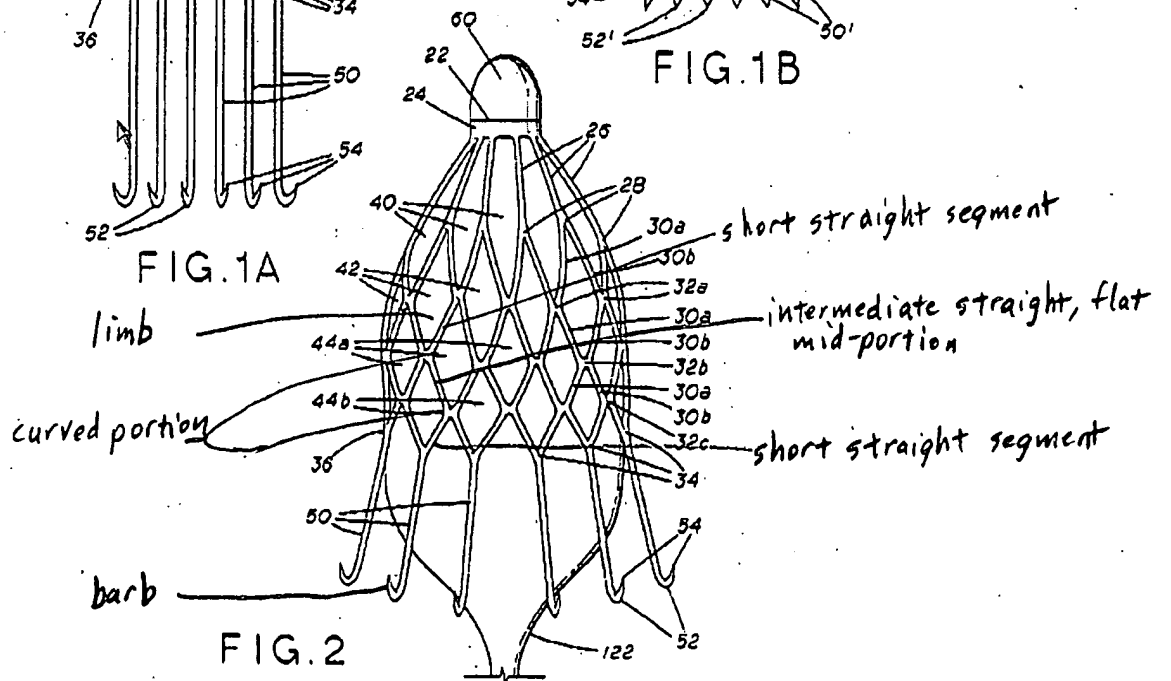
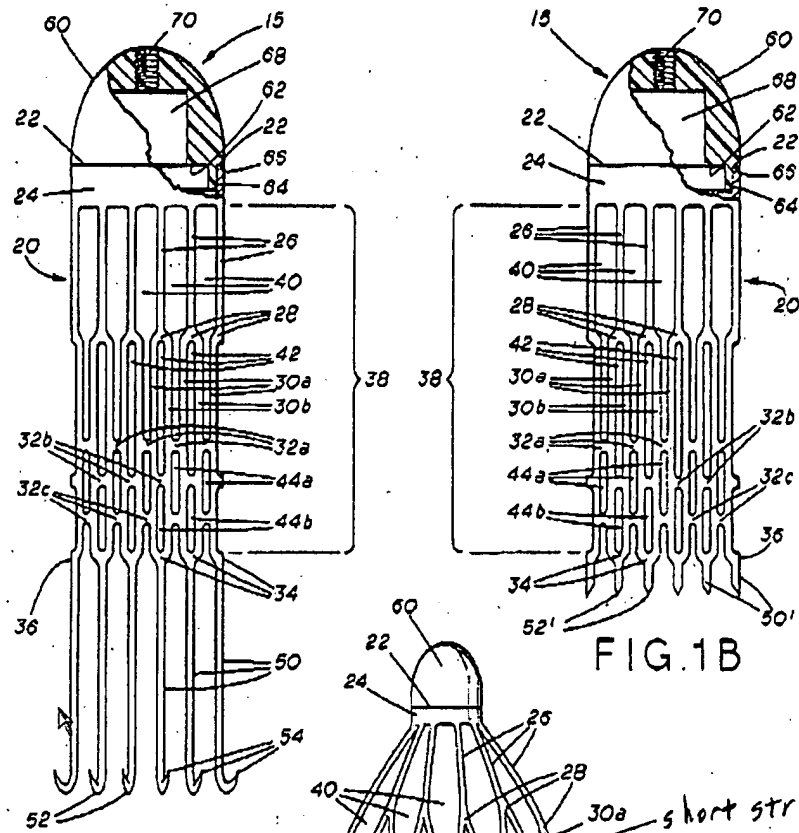
3. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Palmaz (4,793,348). Palmaz discloses, at least in figure 2, a stent (20) comprising at least one limb having a cross-sectional profile in which one segment is flat and straight, where each limb is comprised of two curved portions having opposite directions of curvature, an intermediate straight, flat mid portion connecting the two curved portions, and short straight segments at each end; where the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment (at a "curved portion" as seen in the figure below); where the end of each limb has been provided with a barb (54). See the figure below for an illustration of the abovementioned limitations.

U.S. Patent

Dec. 27, 1988

Sheet 1 of 3

4,793,348



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmaz (4,793,348) in view of Baker et al. (6,221,102). Palmaz discloses the invention substantially as claimed, but does not disclose that the end of each limb has been provided with a series of serrations. Baker et al. teach, at least in figure 13 and in col. 12, lines 47-65, a stent (e.g., 131) including a barb (166) including serrations (170). It would have been obvious to one having ordinary skill in the art at the time the invention was made, in view of Baker et al., to modify the barbs on the stent of Palmaz to include a series of serrations. Such a modification would inhibit withdrawal of the barbs and thus allow the stent to be more firmly secured to tissue.

Response to Amendment

6. Applicant's arguments with respect to claims 12-18 and 22-25 have been considered but are not persuasive. Applicant has asserted that the Office action of July 18, 2007 did not address the "limitation of claim 13," which was incorporated into independent claims 12 and 22-25 in the present amendment. On the contrary and with respect to the rejections based on the Bynon and Palmaz references, the Examiner indeed addressed the limitation in paragraphs 2 and 3 and in the mark-ups of figure 1 of

Bynon and figure 2 of Palmaz in the Office action, where the limb is said to comprise a "short straight segment at each end," and the figures show points of attachment between the short straight segments at the "curved portions," as the Applicant has also pointed out in the arguments. That is, the Examiner concurs with the Applicant in that the short straight segments are joined at "curved portions." The Examiner posits that each "curved portion" includes not only a volume of material with a curved region, the portion includes a discrete volume of material or a region that is deemed to be a "point of attachment." The points of attachment are located *at* the curved portions.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (571) 272-

Application/Control Number:
10/816,780
Art Unit: 3773

Page 9

4707. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo
Primary Examiner

January 10, 2008